



COMMUNITY RIGHTS & RESPONSIBILITIES



UNIVERSITY AT ALBANY

State University of New York

SECTION 1: INTRODUCTION

Community Rights and Responsibilities is the official code of conduct outlining behavioral expectations for University at Albany students. The University has developed this code of standards and expectations, consistent with its purpose as an educational institution and requires that each student accept responsibility for their own behavior and consequences. These regulations and the procedures for their enforcement apply to all student conduct and behavior. Students, as defined in Section 2 of this document, are responsible to uphold the standards outlined in this document. As such, students shall be familiar with this document. These specific regulations should not be viewed as a comprehensive code of desirable conduct; rather they describe the minimum standards. Because disciplinary actions must be commensurate with the seriousness of the offense and the total conduct record of the student, each case is determined on its own merits.

A copy of this document can be viewed and printed at http://www.albany.edu/studentconduct/community_rights_and_responsibilities.php or you may request a hard copy from Community Standards in Campus Center 137. Questions about the contents of the code of conduct can be directed to Community Standards at (518) 442-5501 or at communitystandards@albany.edu.

1. Jurisdiction of the University's Code of Conduct

The student code of conduct shall apply to conduct that occurs on University premises, at University sponsored activities, electronically/online, and to off-campus conduct that adversely affects the University community, the pursuit of its objectives, neighboring communities, or where the alleged conduct may present a health or safety risk to the University community.

All students shall abide by the rules of the Board of Trustees of SUNY, and all local, state and federal laws. The State of New York laws include, but are not limited to, the New York State Penal Law, the New York State Vehicle and Traffic Law, the New York State Education Law, and the Alcohol Beverage Control Law. Violations of these regulations may result in a referral to the Student Conduct System. In such cases, the University may commence the Student Conduct System procedure independent of criminal or civil court proceedings.

A student who withdraws from the University shall not be exempt from disciplinary proceedings for behavioral infractions which took place prior to withdrawal. Campus disciplinary procedures as described in this student code of conduct may proceed with the accused withdrawn student even if the student has withdrawn from the University. Additionally, the University may notate the student's academic transcript "withdrew with conduct charges pending".

2. Inherent Authority for the Student Disciplinary Program

Section 356 of the Education Law empowers the University Council of each State-operated campus of State University of New York to make regulations governing the conduct of students, subject to the general management, supervision, control and approval of the Board of Trustees of the State University of New York. All programs for student welfare and conduct are entrusted to and administered by the President of the University at Albany on behalf of the University Council.

The President has delegated administration of programs for student welfare and conduct to the Vice President for Student Affairs. Enforcement of standards of conduct, University regulations, recommendations for new policies, or modification of policies or regulations affecting student welfare and conduct are initiated through the Office of the Vice President for Student Affairs. The Vice President has jurisdiction over the Student Conduct System and has designated the Office of the Dean of Students and the Office of Community Standards to administer the Student Conduct System.

In addition to *Community Rights and Responsibilities*, the rules, regulations, and procedures for *The Maintenance of Public Order* on campuses of the State University of New York, adopted by the Board of Trustees, are in effect at the University at Albany. (See Rules for the Maintenance of Public Order:

http://www.suny.edu/sunypp/documents.cfm?doc_id=351.)

3. Records

A. Records Retention & Disposition

Pursuant to SUNY's Records Retention and Disposition policy 6609, all student disciplinary records will be retained for a period of seven (7) years from the end of the academic year in which the Student Conduct Referral was resolved. However, there is one exception, student conduct referrals resulting in either disciplinary dismissal/expulsion or a transcript notation of "withdrew with conduct charges pending" will be kept indefinitely.

B. FERPA & Records Release and Disclosure

As per the Records Retention Policy, if Community Standards has a student disciplinary record, they may release the record in accordance with the Family Education Rights and Privacy Act (FERPA).

Students can request records to be released by completing the Student Consent to Release Information Form: <https://www.albany.edu/studentconduct/release.php>

SECTION 2: DEFINITIONS

1. **“Accused”** shall mean a person accused of a violation who has not yet entered the University’s judicial or conduct process.
2. **“Advisor”** is any one person who may accompany a Referring Party, Reporting Individual, or Respondent to any meeting or hearing through the course of the University’s conduct process. The advisor serves in a supportive role and shall not under any circumstance represent or speak on behalf of their advisee.
3. **“Affirmative Consent”** is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.
 - a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
 - b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
 - c. Consent may be initially given but withdrawn at any time.
 - d. Consent cannot be given when a person is incapacitated, and a reasonable person knows or should have known that such person is incapacitated. Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
 - e. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
 - f. When consent is withdrawn or can no longer be given, sexual activity must stop.
4. **“Appeal Review Panel”** means the persons authorized by the Vice President for Student Affairs to consider an appeal.
5. **“Bystander”** shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the University.
6. **“Committee on Student Conduct”** means individuals authorized to hear Student Conduct referrals in cases of academic integrity.
7. **“Community Reengagement Program (CoRe)”** is a self-directed program designed for a student to demonstrate that, in the period following being placed on Disciplinary Probation, they have taken steps to become productive and engaged members of the University Community.
8. **“Community Standards”** is the office and staff, designated to by the Vice President to administer *Community Rights and Responsibilities*.
9. **“Complaint”** shall mean written allegations of student misconduct submitted to the University, which would include, but is not limited to a written description of incident(s), any relevant evidence, witnesses and the alleged prohibited conduct violations prior to becoming a Student Conduct Referral.
10. **“Course of Conduct”** is defined as a pattern of actions composed of two or more acts over a period of time.
11. **“Dean of Students”** means the person, or their designee, designated by the Vice President to oversee Community Standards and appeals.

12. **“Director of Community Standards”** means the person, or their designee, designated by the Vice President to lead Community Standards and administer *Community Rights and Responsibilities*.
13. **“Faculty Member”** means any person hired by the University to conduct classroom and/or research activities.
14. **“May”** is used in the permissive sense.
15. **“Member of the University Community”** includes any person who is a student, staff, faculty member, University official or any other person employed by or contracted with the University. A person’s status in a particular situation shall be determined by the Vice President for Student Affairs.
16. **“Organization”** means any number of persons who have complied with the formal requirements for University recognition/registration.
17. **“Policy”** is defined as the written regulations of the University as found in, but not limited to, *Community Rights and Responsibilities*, Residence Hall & Apartments License Agreement, the Graduate and Undergraduate Bulletins, and the University at Albany Library of Institutional Policies.
18. **“President”** refers to the President of the University at Albany.
19. **“Proceedings”** refers to the activities related to the University’s disciplinary complaint, including but not limited to, fact-finding investigations, formal or informal meetings, hearings, and appeals.
20. **“Reasonable Person”** refers to a hypothetical person who exercises average care, skill and judgment in conduct and who serves as a comparative standard.
21. **“Referring Party”** shall mean a faculty member, staff member, or student who files a Complaint or Student Conduct Referral for an alleged violation of the code of conduct. If a complaint is submitted by a person who is not a faculty member, staff member, or student, then a University Official will serve as the Referring Party.
22. **“Reporting Individual”** shall encompass the terms victim, survivor, complainant, claimant, witness with victim status or any other term used by the University to reference an individual who brings forth a report of a violation or the individual against whom the alleged violation was committed.
23. **“Respondent”** (also referred to as **“Referred Party”**) shall mean a person accused of a violation who has entered the University’s judicial or conduct process.
24. **“Results”** means any initial, interim, and final decision by any University official or entity authorized to resolve disciplinary matters within the University.
25. **“Sexual Activity”** shall have the same meaning as “sexual act” and “sexual contact” as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3): (A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; (3) the term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
26. **“Sexual Misconduct”** is sexual harassment or sexual violence and encompasses a wide range of behavior for sexual purposes that is against another’s will or at the expense of another. Sexual misconduct includes, but is not limited to sexual assault, intimate partner violence, stalking of a sexual nature, or any conduct of a sexual nature that is nonconsensual, or has the effect of threatening or intimidating another.
27. **“Shall”** is used in the imperative sense.
28. **“Student”** is defined as: persons registered for courses, either full time or part time, pursuing undergraduate, graduate, or professional studies, as well as non-degree seeking students; individuals who confirm their intent to enroll in programs; those attending orientation sessions; between academic terms; taking online classes; auditing

classes; residing in the residence halls; those that were enrolled on the date of an alleged incident; persons who are active but not enrolled at the University.

29. **“Student Conduct Administrator”** means any University official appointed by the Vice President to receive, process and resolve student conduct referrals or to review and respond to appeals.
30. **“Student Conduct Board”** refers to the authorized persons who hear student conduct referrals, except alleged violations of academic integrity.
31. **“Student Conduct Body”** is an umbrella term that refers to the Student Conduct Board and the Committee on Student Conduct.
32. **“Student Conduct Referral”** means the University Student Conduct System Standard Case Form that includes a description of alleged misconduct and specific *Community Rights and Responsibilities* code violations.
33. **“Student Conduct System”** means the program established to maintain the integrity of the values of the University community by reviewing alleged violations of *Community Rights and Responsibilities*.
34. **“Title IX Coordinator”** shall mean the Title IX Coordinator and/or their designee or designees.
35. **“University”** means the University at Albany, State University of New York.
36. **“University Official”** includes any person employed by the University, performing assigned administrative or professional responsibilities.
37. **“University Premises”** includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University including adjacent streets and sidewalks. It includes properties under the authority of Student Association of the University at Albany, University Foundation and the University Auxiliary Services, Inc.
38. **“Vice President”** means the Vice President for Student Affairs, or designee, who, as the President’s designee, is responsible for the administration of *Community Rights and Responsibilities*.

SECTION 3: PROHIBITED CONDUCT

The behaviors listed in this section violate the University's student code of conduct. This list is not exhaustive, but is intended to describe general types of behavior that may result in disciplinary action. These codes apply both to student behavior which occurs on campus or at University sponsored events as well as behavior that occurs off-campus. Prohibited behavior includes not only completed actions, but also attempted violations of the student code of conduct. Prohibited conduct also includes aiding, abetting or otherwise facilitating an individual to commit or attempt to commit a violation of the code of conduct.

1. Fire Safety

- A. Causing or creating a fire, regardless of intent (except as authorized for use in class, or in connection with University-sponsored research or other approved activities).
- B. Tampering with safety measures or devices, including but not limited to, alarm systems, fire extinguishers, exit signs, emergency phone systems, smoke or heat detectors, fire hoses, security systems, locked exterior doors, etc.
- C. Failing to conform to safety regulations, including but not limited to, falsely reporting an incident, failure to evacuate facilities in a timely fashion in emergency situations or in response to fire alarms, inappropriate use of the fire alarm system, and inappropriate, negligent or reckless behavior which results in the activation of a fire alarm.

2. Weapons

In accordance with the University's "Weapons on Campus" policy, possession, and therefore use of any Weapon or any device capable of use as a weapon by release of explosive material, noxious material, electric discharge or projectile, is prohibited on Campus.

"Weapon" is any deadly weapon as defined in the NYS Penal Law Section 10.00(12), any weapon listed in NYS Penal Law Section 265, and as listed in the SUNY Board of Trustee Regulations 8 NYCRR Part 590 and SUNY document #5403. Note: in addition to University policy restrictions, possession of a weapon on school grounds, including the University at Albany campus, is a felony under NYS Penal Law Section 265.01-a.

The complete "Weapons on Campus" policy is available at <https://www.albany.edu/risk-management/policy/weapons-campus>.

Additionally, regarding off-campus behavior, the possession or use of a deadly weapon as defined in NYS Penal Law Section 10.00(12), or any weapon listed in NYS Penal Law Section 265, is prohibited.

3. Threatening or Abusive Behavior

Intentionally or recklessly causing physical harm to any person or reasonable fear of such harm.

Students cannot justify such behavior as defensive if: The behavior is a physical response to verbal provocation; the student has the ability to leave the situation, but instead chooses to respond physically; in circumstances where such actions are punitive or retaliatory. Additionally, it is prohibited to use a self-defense spray in circumstances that do not justify the use of such device.

4. Harassment

Engaging in behavior that is sufficiently severe, pervasive and objectively offensive that it unreasonably interferes with, denies, or limits an individual's ability to participate in or benefit from the College's education program and/or activities, and creates an academic environment that a reasonable person would find intimidating or hostile. Activity protected by the First Amendment will not constitute harassment. Harassment may include:

- directing unwanted physical or verbal conduct at an individual based on one or more of that person's protected characteristics or status, including age, color, race, disability, marital status, national/ethnic origin, religion, military/veteran's status, sex [including pregnancy], gender expression or gender identity, sexual orientation, domestic violence victim status, criminal or arrest record, political activities or predisposing genetic characteristics; or
- subjecting a person or group of persons to unwanted physical contact or threat of such.

5. Intimate Partner Violence

Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.

- Dating Violence** - Any act of violence, including physical, sexual, psychological, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Reporting Individual. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of the interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.
- Domestic Violence** - Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.

6. Stalking

Stalking is engaging in a course of conduct (*including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property*) directed at a specific person(s) that would cause a reasonable person(s) to (a) fear for their safety or the safety of others or (b) suffer substantial emotional distress (defined as *significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling*).

Stalking does not require direct contact between parties and can be accomplished in many ways, including through third parties or through the use of electronic devices and social media.

7. Endangerment

Acting to create or contribute to dangerous or unsafe environments anywhere on or off-campus. Reckless or intentional acts which endanger, or put at risk, the welfare of oneself or others are prohibited.

8. Sexual Harassment

Sexual Harassment is unwelcome sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, nonverbal, graphic, physical, or otherwise, when the conditions outlined in (1) or (2), below, are present.

(1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs or activities or is used as the basis for University decisions affecting the individual (often referred to as "quid pro quo" harassment); or

(2) Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual ability to participate in or benefit from, the University's education or employment programs or activities. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective.

9. Sexual Assault and Sexual Exploitation

- A. **Sexual Assault I** - Intentionally engaging in any form of vaginal, anal, or oral penetration, however slight, with any object (an object includes but is not limited to parts of a person's body) without the person's affirmative consent.
- B. **Sexual Assault II** - Intentionally engaging in touching a person's intimate parts (defined as mouth, genitals, groin, anus, inner thigh, breast, or buttocks), whether directly or through clothing, without the person's affirmative consent. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.
- C. **Sexual Exploitation** - Intentionally engaging in or attempting to engage in abusive sexual behavior without affirmative consent that does not otherwise constitute Sexual Assault I or Sexual Assault II. Examples include, but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio recording of sexual activity; sharing and/or allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; inducing incapacitation with the intent to sexually assault another person; creating, possessing or distributing the sexual performance of a child¹; and aiding, abetting, or otherwise facilitating sexual activity between persons without the affirmative consent of one or more party.

10. Hazing

Hazing is any reckless or intentional conduct in connection with the initiation into, or affiliation with, any organization or group which degrades, humiliates or endangers the mental or physical health of any person, regardless of the person's willingness to participate. (See the University's supplemental policy on Hazing for further information: <http://www.albany.edu/studentconduct/Hazing.php>.)

11. Academic Integrity Violations

Conduct including, but not limited to, plagiarism, cheating, multiple submission, forgery, sabotage, unauthorized collaboration, falsification, bribery or use of purchased research service reports without appropriate notation; and theft, damage or misuse of library or computer resources. Attempts to commit such acts shall also constitute a violation of the Academic Integrity Violations code.

(Students should be warned that if found in-violation of academic dishonesty they may be subject to two types of sanctions. If the instructor is convinced that the student has been dishonest, they may administer an academic penalty. The student who disagrees with the judgment or penalty may appeal through established academic appeal procedures. Consult the appropriate department chair, school dean, or academic bulletins for details. At the same time the student may be subject to the proceedings and penalties of the Student Conduct System outlined in *Community Rights and Responsibilities*.)

This code is further defined in the University's "Standards of Academic Integrity" policy, which is available at https://www.albany.edu/studentconduct/standards_of_academic_integrity.php.

12. Forgery, Fraud, Dishonesty

Altering or misusing documents, records, stored data or instrument of identification, or furnishing false information to any University, local, state or federal official. This includes possessing, creating or using a fake or forged instrument of identification, or monetary notes.

13. Property Damage

- A. Removing, destroying or damaging University property, or property under University administration or supervision.

¹ As defined in NYS Penal Code 263.00.

B. Destroying or damaging the property of others, on or off-campus.

14. Theft

Stealing property and/or services; possessing stolen property. This includes identity theft (i.e. unauthorized possession or use of a financial instrument, UAlbany ID Card, etc.).

15. Unauthorized Entry, Presence or Use

Entering, being present in/on or using facilities or property on or off-campus, belonging to individuals, University-recognized groups and/or corporate entities without proper authorization.

16. Drugs

Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), possessing, using, distributing, or intent to distribute, a controlled substance or dangerous drug, or any drug unlawful to possess, e.g. marijuana, except as expressly permitted by law. Drug paraphernalia including, but not limited to: bongs, water pipes, or hypodermic needles that are not specifically required for the administration of prescribed medications are not allowed on campus. Use of legal medication outside the parameters of the medical authorization is prohibited and prescription drugs must have an authentic medical prescription. Driving under the influence of drugs is prohibited. This applies to both on-campus and off-campus behavior.

Additionally, the University's "Alcohol and Drugs on Campus" policy applies.

17. Alcohol

Consistent with New York State Law, individuals under the age of 21 years are prohibited from using, possessing, or distributing alcoholic beverages. Individuals over the age of 21 may use and possess alcohol as permitted by the law and University regulations. Open containers and public intoxication are prohibited. Students who are irresponsible in their use of alcohol or who provide alcohol to minors will be subject to this code regardless of the student's age. Driving under the influence of alcohol is prohibited. This applies to both on-campus and off-campus behavior.

Additionally, the University's "Alcohol and Drugs on Campus" policy applies.

18. Obstruction or Disruption

Obstructing or disrupting University activities, including but not limited to, teaching, research, administration, disciplinary procedures, or other authorized activities including public service functions. It can include participation in campus demonstrations which disrupt the normal operations of the University and infringes on the rights of other members of the University community by leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.

19. Student Group Violations

Students are expected to know and abide by the regulations governing their membership in a student organization (e.g. fraternities and sororities). Prohibited conduct by officers/members of student groups and organizations may result in a referral to the Student Conduct System for individual students.

It is a violation of University policy for students to affiliate with organizations that have had their University recognition suspended or permanently revoked by the University. The definition of affiliation includes joining, rushing, pledging or being involved in any activity that would normally be associated with being a member of such organization.

Full policies are available at <http://www.albany.edu/involvement/leadyourgroup.shtml> and can be discussed in person at the Office of Student Involvement CC West B91, (518) 442-5566 or email involvement@albany.edu.

20. Non-Compliance

A. Failure to comply with University Policy and/or any local, state, federal law, rule or regulation.

- B. Failure to comply with the directions of an authorized local, state, federal or University official acting in the performance of their duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities. This includes, but is not limited to: not appearing at meetings when directed to do so; not providing identification; not abiding by any temporary and/or administrative directive; and not leaving areas/events when directed to do so.
- C. Failure to notify Community Standards of a felony or misdemeanor crime. It is the obligation of every student to notify Community Standards (by email at communitystandards@albany.edu) five (5) calendar days from the date of arrest of any felony or misdemeanor arrests at any time after a student pays their admission deposit through graduation or separation from the University, regardless of geographic location of the arrest or specific crime alleged. Failure to do so may result in conduct charges by the University or administrative/registration holds placed on the student's account. The University may review the facts underlying the arrest to determine if there is an associated University policy violation.

21. Parking and Mass Transit Services Policy Violations

Parking & Mass Transit Services (PMTS) oversees the policies and regulations that govern the possession and use of motor vehicles on campus and use of mass transit services. The full policy can be found at: www.albany.edu/pmts. Violating PMTS policies and regulations is prohibited, which include but are not limited to:

- Purchasing a parking decal for a car that is registered in Department of Motor Vehicles to a resident freshman, a parent of a resident freshman or anyone else who lives at the same address as the resident freshman;
- Purchasing a decal for the vehicle of another student or the vehicle of a family member of another student unless they have the same permanent address;
- Creating, altering or transferring any parking decal, temporary parking hang tag or any other documents relating to obtaining parking privileges in any manner; and
- Using verbal or physical abuse, or threats of violence against any Parking and Mass Transit staff member.

PMTS has the ability to fine or withdraw the right to use a vehicle on campus in addition to, or in lieu of, sanctions imposed through the campus Student Conduct System.

22. Smoking and Tobacco

The University prohibits Smoking and the use of Tobacco Products on University Property.

This code is further defined in the University's "Tobacco-and Smoke-free Campus" policy, which is available at <https://www.albany.edu/risk-management/policy/tobacco-and-smoke-free-campus>.

23. Residence Halls and Apartments License Violations

Failure to abide by the Residence Hall and Apartment Licenses. Complete text of the Residence Hall and Apartment Licenses are available at <http://www.albany.edu/housing/license.shtml>.

24. Disruptive Conduct

Impairing, interfering with or obstructing the orderly conduct, processes and functions of the University or the community where the conduct occurs. This behavior includes, but is not limited to, excessive noise, abusive or obscene language in a public place, littering, obstructing vehicular or pedestrian traffic, and boisterous, indecent or threatening conduct which is unreasonable in the area, time or manner in which it occurs.

25. Information Technology Services Policy Violations

Information Technology Services Policies are available at http://www.albany.edu/its/its_policies.htm, which includes, but is not limited to, the University's Responsible Use of Information Technology Policy.

26. Hate or Bias-Related Crime

Intentionally selecting a person against whom a criminal offense is committed or intended to be committed because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age,

disability, or sexual orientation, regardless of whether the belief or perception is correct. (See the University's supplemental policy on Hate or Bias-Related Crime for further information: http://www.albany.edu/studentconduct/hate_or_bias_related_crime.php.)

27. Gambling

Gambling, including, but not limited to, contests of chance, illegal lottery, playing or gaming for money or something of value; promoting or advancing gambling; gambling using University computing/network facilities; possessing gambling devices or gambling records is prohibited.

28. Abuse of the Student Conduct System

Abusing the Student Conduct System, including but not limited to:

- A. Failure to obey the summons of a Student Conduct Body, Student Conduct Administrator or University official.
- B. Falsification, distortion, or misrepresentation of information before a Student Conduct Body, Student Conduct Administrator or University official.
- C. Disruption or interference with the orderly conduct of a student conduct proceeding.
- D. Knowingly instituting a student conduct referral without cause.
- E. Attempting to discourage an individual's proper participation in, or use of, the Student Conduct System.
- F. Attempting to influence the impartiality of a member of a Student Conduct Body or any other party/individual that may choose to participate in a student conduct proceeding.
- G. Harassment (verbal or physical) and/or intimidation of a member of a Student Conduct Body or any other party/individual that may choose to participate in a student conduct proceeding.
- H. Failure to comply with the sanction(s) imposed under the student code of conduct.
- I. Influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

29. Retaliation

Retaliation is adverse action taken against an individual for making a good faith report of prohibited conduct or participating in any investigation or proceeding under these procedures. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report, made in good faith, was not substantiated. Retaliation may be committed by the Accused, the Respondent, the Reporting Individual, or any other individual(s).

SECTION 4: STUDENT CONDUCT PROCEDURES

1. Introduction

The Student Conduct System addresses charges that are brought against a student that allegedly violates the student code of conduct, *Community Rights and Responsibilities*. **The Student Conduct System utilizes a “preponderance of evidence” standard of proof. A preponderance of evidence standard evaluates whether it is more likely than not that a violation occurred.**

University at Albany email is the official means of communication between Student Conduct Administrators and students on all matters pertaining to the Student Conduct System.

2. Referrals

- A. When an incident occurs and there are allegations that a student violated the code of conduct, individuals who wish to initiate a Student Conduct Referral must file a complaint with a Student Conduct Administrator. A complaint may be filed by any University faculty, staff and/or student.²
- B. A complaint should be submitted as soon as possible after the incident takes place, preferably within the academic year in which the alleged incident took place. While timeliness is preferable, there is no deadline by which a complaint must be filed as long as the accused is a student at the University at Albany.
- C. The complaint must set forth allegations of misconduct in writing with sufficient detail to support a referral, which includes, but is not limited to a description of incident, any relevant evidence, witnesses and the alleged Prohibited Conduct violations. The individual filing the complaint may elect to meet with a Student Conduct Administrator for a consultation prior to submitting a complaint. Once the complaint is received, the Student Conduct Administrator will review the complaint, may meet with other individuals involved, and will then make a determination regarding whether or not the complaint has merit to move forward to a Student Conduct Referral.
- D. If a Student Conduct Referral is generated, the Accused student becomes a Respondent and will be notified that a Student Conduct Referral has been filed against them via University at Albany email. Additionally, the Respondent will have the opportunity to meet with a Student Conduct Administrator to:
 - I. Review the Student Conduct Referral which includes the alleged code violations (charges);
 - II. Learn about the student conduct process and have questions answered;
 - III. Give their perspective about the incident and provide relevant evidence;
 - IV. Provide witness information, if applicable;
 - V. Sign the Student Conduct Referral indicating the referral and possible sanction outcomes have been reviewed; and
 - VI. Receive a copy of the Student Conduct Referral.

During this meeting and throughout the student conduct process, the student may have **one** advisor of their choice. The advisor shall not represent or speak for the student and shall not participate directly in the student conduct process. The advisor may be present and speak privately with the student during any meeting.

If the Respondent chooses not to meet with the Student Conduct Administrator, the Student Conduct Referral and resolution options will be emailed to the Respondent via their University at Albany email or email on record with the University.

- E. After the Respondent has received a copy of the Student Conduct Referral, the Respondent has the option to take up to three calendar days (72 hours) to review their Student Conduct Referral and decide whether or not

² Complaints of Sexual Misconduct will be reported to the Office of Equity and Compliance / Title IX Coordinator. The University's Sexual Violence Response Policy details the intake process for Sexual Misconduct allegations.

to accept responsibility for the charges. After three calendar days (72 hours) the Respondent must communicate their decision to the Student Conduct Administrator, in writing via email. The Student Conduct Administrator will determine the manner in which the case will be resolved and will communicate this to the Respondent.

- F. Multiple incidents may be resolved with one Student Conduct Referral at the discretion of the Student Conduct Administrator.
- G. Polygraph (lie detector) tests reports/results and Sexual Assault Nurse Examiner (forensic exam) reports/results are not admissible in the student conduct process.
- H. Students with disabilities who are involved in the student conduct process may seek reasonable accommodations for any stage of the student conduct process. Any student requesting accommodations will be referred to the Disability Resource Center to request and obtain an accommodation letter. The student must then submit the accommodation letter and their written accommodation request to the Student Conduct Administrator at least 72 hours before the stage of the conduct process that the request is for. The Student Conduct Administrator, in consultation with the Disability Resource Center, will make a determination, based on appropriate legal standards and University policy, regarding what accommodation, if any, is appropriate.

3. Resolutions

Resolutions are the manner in which Student Conduct Referrals are resolved. A description of each type of resolution follows:

A. Administrative Resolution

I. Administrative Agreement

This type of agreement is applicable for referrals where the Respondent accepts a finding of responsibility for violating the code of conduct and resolves the referral with a Student Conduct Administrator by agreeing to an appropriate disciplinary sanction. An appeal may not be filed.

In referrals of sexual misconduct, if the Reporting Individual does not agree with the Administrative Agreement or declines to participate in the process, the Reporting Individual retains the right to appeal as outlined in Section 7.

II. Imposed Determination

If the Respondent does not wish to accept responsibility and/or an appropriate sanction from the Student Conduct Administrator, but the preponderance of evidence standard has been met, a finding of responsibility and a sanction(s) will be imposed. Imposed Determinations may also be imposed if the student fails to meet or communicate with the Student Conduct Administrator. The Respondent maintains the right to file one appeal of the original decision as outlined in Section 7.

Imposed Determinations may only be applied in referrals where sanctions will not result in removal from residence, suspension or dismissal; in these instances, a hearing before a Student Conduct Body will be scheduled. Sexual Misconduct referrals will not be resolved by Imposed Determination.

B. Student Conduct Hearing before a Student Conduct Body

When a referral cannot be resolved by Administrative Resolution or at the discretion of the Student Conduct Administrator, a hearing will be scheduled. The Student Conduct Administrator may later serve as the Referring Party at a Student Conduct Hearing.

Hearings are scheduled around the Respondent's and the Reporting Individual's academic schedules and the Referring Party's schedule only. If a hearing needs to be scheduled during a student's class, Community Standards will issue a letter to the student, which can be utilized to notify instructor(s) of an excused absence.

A hearing may only be postponed due to extenuating circumstances that prohibit the Respondent, Reporting Individual or Referring Party from participating (i.e. hospitalization, death of an immediate family member,

etc.) or at the discretion of Community Standards. In such cases, the Respondent, Reporting Individual or Referring Party may request one postponement with supporting documentation. Requests will be reviewed by Community Standards and a decision will be communicated to parties as appropriate.

Hearings are conducted as follows:

- I. Both the Respondent and Referring Party (and the Reporting Individual in referrals of Sexual Misconduct):
 - a. Receive written notice of a hearing date, time and place at least 5 calendar days (120 hours) in advance;
 - b. Must represent themselves;
 - c. May have **one** advisor present. The advisor shall not address the Student Conduct Body or participate directly in the process, but may speak privately with the advisee during the proceedings;
 - d. Hear a review of the Student Conduct Referral, including the prohibited conduct charge(s) and evidence (the Respondent will then make a plea to the prohibited conduct charges of In-Violation/Responsible or Not-In-Violation/Not Responsible);
 - e. Have the opportunity to make an opening statement;
 - f. Have the opportunity to present witnesses, who have direct knowledge of the incident, to provide a statement (for sexual misconduct referrals see Section 5.2.D.VIII);
 - g. Have the opportunity to ask questions of each other and their witnesses (for sexual misconduct referrals the Respondent and Reporting Individual will not question each other directly, See Section 5.2.D.XI);
 - h. May be questioned by the Student Conduct Body;
 - i. Have the opportunity to make a closing statement, and for sexual misconduct referrals, have the ability to submit an impact statement.
- II. The Student Conduct System encourages student involvement in the conduct proceedings and relies on full and open discussion of referrals with all parties concerned in order to render a fair judgment. The Student Conduct System is administrative in nature and, as such, is not considered a court of law where formal rules of process, procedure or technical rules of evidence apply.
- III. Referrals involving multiple students may be resolved at one hearing.
- IV. Hearings are regarded as confidential and closed to all but the principals of the referrals, their witnesses, their advisor, the Student Conduct Body, and Community Standards. Student Conduct Body Members in-training may observe.
- V. An official audio recording will be made of the proceedings. This recording is the property of the University and will not be duplicated or released. Participants are prohibited from making their own recording during the hearing (including but not limited to audio, video, photographic and/or written recording). The Respondent and Referring Party may submit a written request to Community Standards for permission to listen to the official audio recording in a supervised location on campus. An official redacted written transcript can be provided by the University at the requesting party's expense.
- VI. Evidence to be presented by the Referring Party(ies), Reporting Individual(s), and Respondent(s) during any hearing must be submitted to Community Standards at least 48 hours in advance of the scheduled hearing. This evidence will be shared with the opposing party. In extraordinary circumstances, Community standards or the Student Conduct Body may accept the submission of evidence within the 48 hour time period before the hearing. Community Standards or the Student Conduct Body will make the final decision related to the relevancy and admissibility of all evidence (for sexual misconduct referrals see Section 5.2.D.VIII).
- VII. Witnesses to be presented by the Referring Party(ies), Reporting Individual(s), Respondent(s) during any hearing must be submitted to Community Standards at least 48 hours in advance of the scheduled hearing. Witness names will be shared with the opposing party. In extraordinary circumstances, Community Standards or the Student Conduct Body may accept the submission of witnesses within the 48 hour time period before the hearing. Community Standards or the Student Conduct Body will make the final decision related to the relevancy and admissibility of all witnesses (for sexual misconduct

referrals see Section 5.2.D.VIII).

- VIII. Should the Referring Party(ies), Reporting Individual(s), Respondent(s) fail to appear for a scheduled hearing, a finding will be made based upon the information available and sanction(s) imposed, if appropriate.
- IX. The primary function of any Student Conduct Body is to determine, using a preponderance standard, whether the Respondent has violated the provisions of *Community Rights & Responsibilities* and if so, recommend an appropriate sanction. During the hearing, the Student Conduct Body will make the final decision regarding the relevancy and admissibility of testimony. The Student Conduct Body makes its determinations by consensus.
- X. The Respondent will be notified, in writing, of the final decision of the Student Conduct Body and of the right to appeal. Consistent with the provisions of the Family Rights and privacy Act (FERPA) regulations, and in cases involving sexual misconduct offenses or crimes of violence, both the Respondent and the Referring Party and/or Reporting Individual will be notified of the final decision of the Student Conduct Body.
- XI. The Respondent's status at the University is not altered until the appeal decision is final. In certain cases, however, the Vice President may determine that the Respondent's presence is a threat to the University community and uphold the sanction imposed by the Student Conduct Body until the appeal is final.

C. Alternative Dispute Resolution

I. Behavioral Meeting and Conduct Notice

A informal meeting with a student for minor behavioral infractions and/or prohibited conduct violations that are not formally referred through the conduct process. The meeting is followed by a written notice to the student indicating that the student's behavior is counter to the expectations outlined in the student code of conduct and may result in the issuance of a Cease and Desist Directive to the student, parental notification, or a requirement that the student participate in Educational Programs & Services.

II. Mediation

Mediation is a voluntary process that requires the commitment of all parties. It is appropriate when a violation arises out of a dispute between students. It is generally reserved for first time and less serious violations. The goal is to reach a written agreement to resolve the dispute and to prevent it from reoccurring. The Student Conduct Administrator will retain a record of the mediation efforts and the mediation agreement. If the parties fail to live up to the agreed settlement, or if mediation attempts fail to reach an agreement, a referral may be processed.

III. University Community Accountability Board (UCAB)

UCAB is a restorative justice practice, which presents an alternative to the traditional disciplinary process by engaging the responsible party, as well as the parties harmed by their behavior, in a dialogue that seeks to repair harm. The goal is to design a process which reintegrates the responsible party into the community. The student also plays a key role in deciding what they must do to repair the harm they may have caused by the behavior. The responsible party must acknowledge that their behavior violated the Student Code of Conduct and harmed another in order to participate in the UCAB process. This procedure is generally reserved for first-time and less serious violations. UCAB facilitators are selected from a pool of faculty, staff and students.

SECTION 5: CASES OF SEXUAL MISCONDUCT

1. Introduction

This section outlines the policy and procedures that will be followed for all cases of sexual misconduct, including domestic violence, dating violence, stalking, sexual exploitation, sexual assault, or sexual harassment, in addition to procedures described in other sections of *Community Rights and Responsibilities*. In the event that there is a conflict between any procedures set forth in *Community Rights and Responsibilities*, the procedures set forth in this section will control for cases of sexual misconduct.

Compliance with any of the below listed provisions does not constitute a violation of Section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

The burden of proof in all sexual misconduct cases is a “preponderance of the evidence”, meaning that the determination is whether it is more likely than not that the sexual misconduct occurred. If the evidence meets this standard, than the Respondent MUST be found responsible of a violation of this code.

A. Students’ Bill of Rights

The University at Albany is committed to providing options, support, and assistance to members of our community that are affected by sexual assault, sexual exploitation, sexual harassment, intimate partner violence and stalking, regardless of whether the crime occurred on campus, off campus, or while studying abroad. The rights enumerated in the Student’s Bill of Rights (available here: <https://www.albany.edu/titleIX/title-ix-bill-of-rights.php>) are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

B. Policy for Alcohol and/or Drug Use Amnesty in Sexual Misconduct Cases

The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. The University at Albany recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University at Albany strongly encourages students to report incidents of sexual misconduct to University officials. A bystander or Reporting Individual, acting in good faith, who discloses any incident of sexual misconduct to University Officials or law enforcement, will not be subject to the University’s code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time that the sexual misconduct occurred.

2. Student Conduct Process in Cases Involving Sexual Misconduct for Student Respondents and Student Reporting Individuals

- A. Reporting Individuals have the right to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the *Community Rights & Responsibilities* as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
- B. The University shall have a prompt response and timely reviews of all complaints of Sexual Misconduct. Promptness is determined by the University in view of the circumstances of the case, personnel availability, complexity of the request, and evidence/information submitted. The preliminary review of all complaints, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint. Absent extenuating circumstances,

review, investigation, resolution, via a hearing or administrative determination, and appeal determination is expected to take place within 180 calendar days from receipt of the complaint. The above timeframes may be extended for good cause as determined by the Title IX Coordinator or the Director of Community Standards, or a designee of those individuals. Extensions requested by the Respondent or Reporting Individual will not be longer than five (5) business/school days.

- C. The Title IX Coordinator or their designee must refer any complaint that was investigated to the Office of Community Standards so Community Standards can determine whether the Reporting Individual's account, if accepted as true, alleged any violation of University at Albany policy, and, specifically, whether there is reason to believe that the Accused/Respondent engaged in conduct constituting sex discrimination or sexual misconduct in any form. The Title IX Coordinator or their designee shall be the Referring Party for all referrals of sexual misconduct.
- D. Throughout conduct proceedings, the Respondent and the Reporting Individual will have the right to:
 - I. Be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Advisors may not address the Student Conduct Body during a disciplinary hearing but may speak privately with the advisee during the proceedings.
 - II. Have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the Respondent, including the right to a presumption that the Respondent is, "not responsible" until a finding of responsibility is made and other issues related to sexual assault, sexual exploitation, domestic violence, dating violence, and stalking.
 - IV. An investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
 - V. Receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.
 - VI. Have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
 - VII. Offer evidence during an investigation and to review available relevant evidence in the case file.
 - VIII. Present evidence, witnesses and testimony at a hearing, where appropriate.

In cases of sexual misconduct, a thorough and fair investigation is conducted by the Office of Equity and Compliance. That process, set forth in the Sexual Violence Response Policy, Section IX, allows each party the opportunity to provide verbal and written statements, identify witnesses who may be interviewed, and to respond to any information included in the investigative report, which will ultimately be provided to the Office of Community Standards, and, if applicable, a Student Conduct Body.

All information available during the course of the investigation must be submitted to the Office of Equity and Compliance during the investigative process. The Office of Equity and Compliance will determine the relevancy and admissibility of all information and witnesses presented and make the final determination as to whether the information presented should be included in the investigative report.

Students will not be permitted to submit evidence or identify additional witnesses to the Office of Community Standards or Student Conduct Body if available during the course of the investigation. However, relevant new evidence or witnesses, unavailable³ during the course of the investigation, may be submitted to the Office of Community Standards 48 hours prior to the hearing, as per Section

³ Evidence or witnesses that a student is choosing not to disclose or present due to participation in, or anticipated participation in, a criminal or civil proceeding is not considered unavailable.

4(3)(B)(6-7) to be reviewed for relevancy and admissibility. Community Standards or the Student Conduct Body will make the final determination regarding relevancy and admissibility of all information and witnesses presented after the submission of the investigative report.

- IX. A range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- X. Exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, sexual exploitation or sexual assault may be admissible in the disciplinary stage that determines sanction.
- XI. Ask questions of the decision maker and via the decision maker indirectly request responses from other parties. In other words, the Respondent and Reporting Individual cannot directly question each other and will be expected to ask questions in writing through the Student Conduct Body.
- XII. Make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- XIII. Simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
- XIV. Written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- XV. Access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest (see Section 7.4)
- XVI. Have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for a period of seven (7) years from the end of the academic year in which the student conduct referral was resolved. A records request can be made to Community Standards: communitystandards@albany.edu, (518) 442-5501, Campus Center 137.
- XVII. Choose whether to disclose or discuss the outcome of a conduct hearing.
- XVIII. Have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

3. Temporary Directives & Actions

- A. When the Accused or Respondent is a student, the University will issue a “No Contact Order” meaning that continuing to contact the protected individual, either directly or through a third party, is a violation of University policy subject to additional conduct charges; if the Accused or Respondent and a protected person observe each other in a public place, it is the responsibility of the Accused or Respondent to leave the area immediately and without directly contacting the protected person.
- B. When the Accused or Respondent is a student and presents a continuing threat to the health and safety of the community, the Accused or Respondent may be subject to a Temporary Suspension pending the outcome of the student conduct process (see Section 6.2A regarding “Temporary Suspension”).
- C. Both the Accused/Respondent and the Reporting Individual shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any Temporary Directives (See Section 6.2). The Accused/Respondent or Reporting Individual shall be allowed to submit evidence in support of their request.
 - I. The request for review must be submitted in writing to the Director of Community Standards (by email: communitystandards@albany.edu or, if permissible, in person: Campus Center 137) within 2 calendar days of the imposition of Temporary and/or Administrative Directives.

II. The University may establish an appropriate schedule for the Accused/Respondent to access applicable University buildings and property at a time when such buildings and property are not being accessed by the Reporting Individual.

SECTION 6: SANCTIONS AND TEMPORARY DIRECTIVES

Failure to comply with sanctions and directives is a violation of University policy subject to additional conduct charges.

1. Sanctions

A sanction is a requirement or status that is issued as a result of either accepting responsibility or being found responsible for violating the student code of conduct, *Community Rights and Responsibilities*.

Disciplinary sanctions shall be communicated to students in writing via University email, which is the official means of communication between Student Conduct Administrators and students.

Sanctions are determined by the seriousness of the code violation and are not necessarily progressive. For example, a student with no prior disciplinary record may be issued a sanction commensurate with the offense up to and including removal from residence, suspension or dismissal.

A. Disciplinary Warning

This is a lower level sanction issued as a result of a formal Student Conduct Referral. A student is placed on Disciplinary Warning for a period of three months excluding winter and summer intersessions. This serves as a notice to a student that the behavior is counter to the expectations in the student code of conduct. Having an active Disciplinary Warning can impact your ability to hold positions with campus offices and/or organizations and other campus opportunities.

B. Disciplinary Probation

This is a mid-level sanction issued as a result of a formal Student Conduct Referral and is imposed for serious violations or a pattern of violations of the student code of conduct. A student is placed on Disciplinary Probation through graduation. However, a student who is on Disciplinary Probation is encouraged to modify the unacceptable behavior and is given the tools to help them do so. After a period of at least three months on Disciplinary Probation, the student may apply to the Community Reengagement (CoRe) Program to have the probation lifted. Students who do not apply for removal from probation will remain on Disciplinary Probation for the entire time they are a student at the University. Having active Disciplinary Probation status may impact your ability to hold positions with campus offices and/or organizations and other campus opportunities, such as studying abroad. Specifically, a student cannot: run for or hold certain campus-wide leadership positions including elected or appointed student government offices; hold a position in Residential Life; or serve on the Student Conduct Board.

C. Terminal Disciplinary Probation

This is a severe sanction issued as a result of a formal Student Conduct Referral that lasts one calendar year and includes all the restrictions of Disciplinary Probation. The student will be required to work with an appointed mentor to help address the factors that resulted in this sanction being issued and to discuss returning to and maintaining a good disciplinary standing with the University. After one year, Terminal Disciplinary Probation converts to Disciplinary Probation, which is in place through a student's graduation. Students who violate the student code of conduct while on Terminal Disciplinary Probation may be removed from residence, suspended or dismissed.

D. Removal from Residence

Students who have a serious violation, or series of violations, of the student code of conduct or the Residence Hall and Apartments License, will be asked to leave campus residence either permanently or for a period of time. This sanction carries with it the penalty of forfeiting room and board charges for the semester in which

the disciplinary action occurs. Depending on the nature of the incident, the student may also receive a form of disciplinary probation as part of this sanction.

E. Suspension - Disciplinary

Suspension is a severe sanction where the student is separated from the University for a period of time. A suspended student forfeits tuition and fees and does not receive academic credit for the semester in which the suspension occurred. If a resident student, the student also forfeits room and board charges for the semester in which the suspension occurred. A student who is suspended from the University is unable to register for and attend classes or to be present on University premises for a prescribed period of time. Additionally, a registration hold is placed on the student's account, the student's access to Information Technology Services (i.e. University email, ePay, MyUAlbany, etc.) is terminated, and the student will be withdrawn from their classes for the semester in which the suspension is enacted.

A suspended student will have an academic transcript notation of the suspension. For non-sexual misconduct violations, a notation of "suspended-disciplinary" is placed on the student's academic transcript for a period of seven (7) years from the end of the academic year in which the student conduct referral was resolved. For sexual misconduct violations or for violations that are crimes of violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C 1092(f)(1)(F)(i)(I)-(VIII), a notation of "suspended after a finding of responsibility for a code of conduct violation" is placed on the student's academic transcript for a period of seven (7) years from the end of the academic year in which the student conduct referral was resolved.

Students who are suspended and wish to return to the University at Albany must first meet with Community Standards, prior to applying for readmission, to assess their readiness for readmission. Students who are Disciplinary Suspended *with conditions* and who wish to return to the University at Albany must meet with Community Standards to also verify the successful completion of the conditions.

F. Dismissal - Disciplinary

A student who is dismissed (expelled) from the University is permanently separated from the community, permanently prohibited from being on University premises and shall never return to the University. The student forfeits tuition and fees and does not receive academic credit for the semester in which the dismissal occurred. If a resident student, the student also forfeits room and board charges for the semester in which the dismissal occurred. Additionally, a permanent registration hold is placed on the student's account, the student's access to Information Technology Services (i.e. University email, ePay, MyUAlbany, etc.) is terminated, and the student will be withdrawn from their classes for the semester in which the dismissal is enacted.

A dismissed student will have an academic transcript notation of the dismissal. For non-sexual misconduct violations, a notation of "dismissed-disciplinary" is permanently placed on the student's academic transcript. For sexual misconduct violations or for violations that are crimes of violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C 1092(f)(1)(F)(i)(I)-(VIII), a notation of "dismissed after a finding of responsibility for a code of conduct violation" is permanently placed on the student's academic transcript.

G. Residence Hall/Apartment or Campus Restriction

A student may be restricted from appearing in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a risk or threat to the health or safety of the campus community. Other restrictions may be imposed such as denial of access to specified campus classes, services or programs.

H. Restitution

If University property is damaged or disrupted, an assessment of the damage/disruption will be made by the appropriate University department and/or personnel. The responsible student(s) may be billed as appropriate. Restitution for personal property cannot be resolved via the Student Conduct System.

I. Educational Programs & Service

Educational Programs & Services such as Alcohol Education Programs, Drug Education Programs, Community Service, By-Stander Intervention Programs, reflection or research papers, follow-up meetings, etc., may be used to supplement any other student conduct sanction.

J. Parental Notification

In accordance with Family Educational Rights and Privacy Act (FERPA) regulations, the Vice President may, in the exercise of their discretion, notify the parent(s) of any student found to have violated the provisions of Community Rights and Responsibilities.

K. Cease & Desist Directive

A written directive to a student prohibiting a student from contact and communication with another individual(s), either directly or through a third party. This may be issued reciprocally to multiple individuals.

L. No Contact Directive

A written directive only issued in cases involving an allegation of Sexual Misconduct. The No Contact Directive prohibits communication and contact with a protected individual, either directly or through a third party. If the Respondent (responsible student) and a protected person observe each other in a public place, it is the responsibility of the Respondent (responsible student) to leave the area immediately and without directly contacting the protected person.

2. Temporary Directives & Actions

A Temporary Directive is an interim measure taken, if reasonable under the circumstances, against a student pending a resolution of a University investigation and/or a Student Conduct Referral, with the exception of a Cease and Desist Directive. A Cease and Desist directive may be issued as a non-disciplinary directive for a temporary duration of time, such as, until one party is no longer a student at the University.

After a Temporary Directive is issued, the student shall, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any Temporary Directives. The Respondent shall be allowed to submit evidence in support of their request. The request for review must be submitted in writing to the Director of Community Standards (by email: communitystandards@albany.edu or, if permissible, in person: Campus Center 137) within 2 calendar days (48 hours) of the imposition of the Temporary Directive. The Director of Community Standards, or their designee, shall review the request.

A. Temporary Suspension

The Vice President, or their designee, may take action immediately to suspend a student from the University and remove the student from campus when the Vice President reasonably believes that the continued presence of such student would constitute a danger to the safety of persons or property. The suspension is temporary pending the resolution of the student's Student Conduct Referral as outlined in *Section 4* and/or *Section 5* of *Community Rights & Responsibilities*.

B. Temporary Removal from Residence

When the Director of Residential Life, or their designee, reasonably believes that the behavior of a resident student significantly detracts from the educational environment of the residence hall or constitutes a danger to the safety of other persons or property in the residence hall, the Director may temporarily remove the student from campus housing and restrict the student from the buildings and grounds of the residential complexes.

The removal is temporary pending the resolution of the students Student Conduct Referral as outlined in *Section 4* and/or *Section 5 of Community Rights & Responsibilities*.

C. Temporary Residence Hall/Apartment Restriction or Campus Restriction

The Vice President, or their designee, may take action to temporarily restrict a student from appearing in any or all of the residences, buildings or grounds on campus if it is reasonably believed that the student poses a threat to the health or safety of the campus community. Other temporary restrictions may be imposed such as denial of access to specific campus services or programs.

D. Cease & Desist Directive

A Student Conduct Administrator, the Title IX Coordinator, or their designee may take action to issue a written directive to a student temporarily prohibiting a student from contact and communication with another individual(s), either directly or through a third party. This may be issued reciprocally to multiple individuals.

E. Temporary No Contact Directive

The Director of Community Standards, Title IX Coordinator, or their designee, in cases involving allegations of Sexual Misconduct, may issue a written directive temporarily prohibiting the Accused or Respondent from contact and communication with a protected individual, either directly or through a third party. If the Accused or Respondent and a protected person observe each other in a public place, it is the responsibility of the Accused or Respondent to leave the area immediately and without directly contacting the protected person.

F. Temporary Withholding of Degree

The Vice President, or their designee, may temporarily suspend academic degree clearance or withhold a student's academic degree when a University investigation or Student Conduct Referral is pending, or when a student's full compliance with disciplinary sanctions are pending.

G. Temporary Account Hold

The Director of Community Standards, Title IX Coordinator, or their designee, may place an administrative or registration hold on a student's account when a University investigation or Student Conduct Referral is pending, or when a student's full compliance with disciplinary sanctions are pending.

SECTION 7: STUDENT CONDUCT APPEALS

1. Introduction

An appeal is the process to request a review of the original student conduct referral outcome. The Respondent has the right to submit one appeal of the original decision. In cases of sexual misconduct, both the Respondent and the Reporting Individual have the right to appeal (see Section 7.4 for further clarification). An appeal does not rehear a student conduct case, but rather, determines if the conclusion reached in the original case is valid based on substantiation of a procedural error, new evidence, or the severity of the sanction.

2. Appeal Grounds

An appeal may only be filed on the grounds below and must meet at least one of the three standards to be considered for appeal.

- A. **Procedural Error:** Procedural error occurs when the policies outlined in *Community Rights and Responsibilities* are not followed, and as a result, the outcome of the case was significantly impacted. A procedural error and its impact on the case outcome must be clearly described in the appeal.
- B. **New Evidence:** This refers to new evidence that was unavailable during the original hearing, the investigation or a scheduled meeting with a Student Conduct Administrator, that could significantly impact the original finding or sanction. A summary of the new evidence and its potential impact must be included. This does not include information available but not disclosed at the Student Conduct Hearing by choice (i.e., opting not to disclose information for any reason). In cases of Imposed Determinations, new evidence that was unavailable during the scheduled Student Conduct Procedures meeting.
- C. **Sanction Severity:** A sanction imposed as a result of the original student conduct meeting/hearing that is significantly outside of the parameters of the Sanction Guidelines may be appealed. Evidence must show that the sanction is inappropriate based on the infraction, according to standard Sanction Guidelines available at https://www.albany.edu/studentconduct/supplemental_policies.php.

3. Appeal Procedure for Cases of Non-Sexual Misconduct

- A. The Respondent may file a timely appeal that meets the appeal grounds. The appeal must be submitted electronically, in writing, within seven calendar days of receiving the decision letter via University e-mail. Instructions on how to file an appeal are provided in the decision letter. An appeal may not be submitted by a third party.
- B. The appeal, original conduct referral/record, and the imposed determination or the original Student Conduct Body's decision are reviewed by the Dean of Students, or their designee(s), to determine if the appeal is **timely AND meets the grounds** for appeal.
- C. The original decision and sanction will be upheld if the appeal is not timely or does not meet the grounds for appeal.
- D. If the appeal is timely AND meets the grounds, the Dean of Students, or their designee(s), may recommend the following actions:
 - i. Modify any of the decisions made by the Student Conduct Body or Student Conduct Administrator's: examples of possible modifications include, but are not limited to, changing a decision of "In-Violation" to "Not In-Violation" for one or more charges and/or changing the sanction to be less or more severe.
 - ii. Reverse all decisions made by the Student Conduct Body or Student Conduct Administrator: in this case, the Student Conduct Body or Student Conduct Administrator's entire original decision regarding responsibility and sanctions are overturned.
 - iii. Remand the matter back to the original Student Conduct Body or Student Conduct Administrator who heard the referral for a specific reconsideration or for the referral to be reheard, in part or in entirety.

- iv. Remand the matter to a new Student Conduct Body or Community Standards for the referral to be reheard.
- E. Appeal findings shall be recommended to the Vice President or the Vice President's designee who will render a final decision. For appeals of academic integrity violations, appeal findings shall be recommended to the Provost, or the Provost's designee, who will render a final decision. A written notification of the appeal decision will be made via University email. This decision is final.

4. Appeal Procedures for Cases of Sexual Misconduct

- A. The Respondent and Reporting Individual may file a timely appeal that meets the appeal grounds. The appeal must be submitted electronically, in writing, within seven calendar days of receiving their decision letter via University e-mail. Instructions on how to file an appeal are provided in the decision letter. An appeal may not be submitted by a third party. After the seven calendar day period, the Respondent and Reporting Individual will be notified regarding if an appeal was submitted or not by the opposing party.
- B. The appeal, original conduct referral/record, and the administrative agreement or the original Student Conduct Body's decision are reviewed by Appeal Review Panel to determine if the appeal is **timely AND meets the grounds** for appeal.
- C. The original decision and sanction will be upheld if the appeal is not timely or does not meet the grounds for appeal.
- D. If the appeal is timely AND meets the grounds, the Appeal Review Panel, may take the following actions:
 - i. Modify any of the decisions made by the Student Conduct Body or Student Conduct Administrator's: examples of possible modifications include, but are not limited to, changing a decision of "In-Violation" to "Not In-Violation" for one or more charges and/or changing the sanction to be less or more severe.
 - ii. Reverse all decisions made by the Student Conduct Body or Student Conduct Administrator: in this case, the Student Conduct Body or Student Conduct Administrator's entire original decision regarding responsibility and sanctions are overturned.
 - iii. Remand the matter back to the original Student Conduct Body or Student Conduct Administrator who heard the referral for a specific reconsideration or for the referral to be reheard, in part or in entirety.
 - iv. Remand the matter to a new Student Conduct Body or Community Standards for the referral to be reheard.
- E. The Appeal Review Panel makes the final decision. A written notification of the appeal decision will be simultaneously sent via University email to the Respondent and the Reporting Individual, respectively. This decision is final.



STUDENT AFFAIRS

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COMMUNITY STANDARDS

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EFFECTIVE AUGUST 30, 2019